लोक सेवा अधिकरण उत्तराखण्ड, देहरा

टिप्पणी एवं आदेश–पत्र

याचिका संख्या 50/DB/2019	विभाग .....
Navneet Chauhan	विषय/अनुतोष .....
बनाम	
State & oth	

निबन्धक टिप्पणी	पीठ द्वारा आदेश

Dated: 24.05.2019.

Present: Sri Shashank Pandey, Ld.Counsel for the petitioners.
Sri V.P.Devrani, Ld. A.P.O., for Respondent No.1.
Sri S.K.Jain, Ld. Counsel for Respondents No.2 & 3.

By means of present claim petition, petitioners seek following reliefs:

"(i) Issue order or direction to direct the respondents to issue a seniority list including the name of the petitioners as per the directions of this Hon'ble Tribunal given vide judgment and order dated 27.06.2018 passed in claim petition no. 576/DB/2018 (Navneet Chauhan & others vs. State of Uttarakhand & others.)
(ii) Issue any other order of direction which the Hon'ble Court deems fit and proper.
(iii) Award the cost of claim petition to the petitioner."

Ld. Counsel for the petitioners has placed a judgment rendered by Hon'ble High Court of Uttarakhand on 24.04.2019 in WPSS No. 875/2017, Ashok Kumar and others vs. State of Uttarakhand and others to show that similar controversy has been resolved by Hon'ble High Court. He has prayed that present claim petition may be disposed of in the same terms. Sri V.P. Devrani, Ld. A.P.O., for Respondent No.1 and Sri S.K.Jain, Ld. Counsel for Respondents No. 2 & 3 agreed that the present claim petition may be disposed of in terms of decision rendered by Hon'ble High Court on 24.04.2019 in WPSS No. 875/2017, Ashok Kumar and others vs. State of Uttarakhand and others.

Accordingly, this claim petition is being disposed of, with the consent of Ld. Counsel for the parties, in the following manner:

Respondent No. 3 is directed to determine the seniority of Junior Engineers (E&M) within a period of twelve weeks from the date of production of certified copy of this order.

सत्य प्रतिलिपि
28/5/19
उप-निबन्धक
उत्तराखण्ड लोक सेवा अधिकरण
देहरादून।

याचिका संख्या .....

पृष्ठ संख्या .....

टिप्पणी एवं आदेश

निबन्धक टिप्पणी	पीठ द्वारा आदेश	रिक्त रखें

On determination of seniority of petitioners *vis-à-vis* other Junior Engineers (E&M), who were appointed along with petitioners, it will be open for the petitioners to put challenge the seniority list, if they are aggrieved with the same.

The claim petition is disposed of., at the admission stage, with the above observations and the liberty given. No order as to costs.

Sd/-

A.S.NAYAL
MEMBER(A)

Sd/-

JUSTICE U.C.DHYANI
CHAIRMAN

VM

सत्य प्रतिलिपि
28/5/19
उप-निबन्धक
उत्तराखण्ड लोक सेवा अधिकरण
देहरादून।

PREPARED BY: 28/5/19
CHECKED BY: 28/5/19

(69)

BEFORE THE HON'BLE PUBLIC SERVICES TRIBUNAL OF UTTARAKHAND AT DEHRADUN

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IN

Claim Petition no. of 2019(D/B)

Navneet Chauhan & Anr. Vs. State of Uttarakhand and Ors.

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Dated:

Shashank Pandey &Akan[illegible]uyal
Advocates
(Counsels for the Petitioners)

O/o GM(L)/CS, UPCL
VCV Gabar Singh Urja Bhawan,D.Dun
Dy.No.1816 File No.13-A Dt. 21/5/19
SLO-MN/SLO-MK/DCM-DEO/H.Lata/
SM-DEO/Adv.A.R./Deepak/VSN/Rekha
CS & GM (L)

CS/SS

21/5/19

To discuss 21/5

(40)

BEFORE THE HON'BLE PUBLIC SERVICES TRIBUNAL OF UTTARAKHAND AT DEHRADUN

SYNOPSIS

IN

Claim Petition no. of 2019(D/B)

Navneet Chauhan & Anr. Vs. State of Uttarakhand and Ors.

The petitioners are Junior Engineers employed in UPCL. That, the petitioners had filed Claim Petition No. 57/DB of 2016 before this Hon'ble Tribunal and the Hon'ble Tribunal directed the department that the names of the petitioner shall be considered an appropriately placed while preparing the seniority list for the year 2008-09 in accordance with Rule 5 of Seniority Rules, 2002. The department has not circulated the seniority list till date and the petitioners are aggrieved by non circulation of the new seniority list as per Rule 5 of the Uttarakhand Government Service Seniority Rules, 2002 which are pari materia to the Rules of 1998.

Dated:

Shashank Pandey &Akansha Juyal
Advocates
(Counsels for the Petitioners)

BEFORE THE HON'BLE PUBLIC SERVICES TRIBUNAL OF UTTARAKHAND AT DEHRADUN

Claim Petition no. of 2019(D/B)

1. Navneet Chauhan s/o Shri M.S. Chauhan, aged about 34 years presently posted as Junior Engineer (IT) V.C.V.G.S.U. Bhawan, Kanwali Road, Dehradun.
2. Upendra Bhandari s/o Shri D.S. Bhandari, aged about 35 years presently posted as Junior Engineer (Distribution), SDO vasantVihar Dehradun

..... Petitioners

VERSUS

1. State of Uttarakhand through Principal Secretary, Energy, Civil Secretariat, Derhadun.
2. Managing Director, Uttarakhand Power Corporation Limited, VCVGSU Bhawan, Kanwali Road, Derhadun.
3. Director(H.R.) Uttarakhand Power Corporation Limited, VCVGSU Bhawan, Kanwali Road, Dehradun

..... Respondents

Claim Petition U/S 4 of the U.P. Public Services Tribunal Act, 1976

Before the Hon'ble Chairman and his companion Vice Chairman of this Hon'ble Tribunal the petitioner most humbly submits as under:

1. That, the petitioners are aggrieved by non circulation of a new seniority list as per Rule 5 of the Uttarakhand Government Service Seniority Rules, 2002 which are pari materia to the Rules of 1998.

2. **Jurisdiction of the Tribunal:**

The petitioner declares that the subject matter of the claim petition against which he is seeking redressal, is within the jurisdiction of the Hon'ble Public Services Tribunal.

3. **Limitation:**

The petitioner declares that the matter of the claim petition against which he is seeking redressa is not delayed

4. **Facts of the Case:**

a. That, the petitioners are Junior Engineers employed in UPCL.

b. That, the petitioners had filed Claim Petition No. 57/DB of 2016 seeking following reliefs:

i. Issue order or direction to direct the respondents to issue a seniority list including the name of the petitioners and giving the seniority to the petitioners as per merit list prepared by the Select Committee.

ii. To give consequential benefits to the petitioners and promote the petitioners in case juniors have been promoted.

iii. .....

iv. .....

For the kind perusal of Hon'ble Tribunal a copy of the Claim Petition No. 57/DB of 2016 is enclosed with this Claim Petition as **Annexure 1**.

c. That, this Hon'ble Court while deciding the petition directed the department that the names of the petitioner shall be considered an appropriately placed while preparing the seniority list for the year 2008-09 in accordance with Rule 5 of Seniority Rules, 2002 which are pari materia to the rules of 1998. For the kind perusal of Hon'ble Tribunal a copy of order dated 27.06.2018 is enclosed with this Claim Petition as **Annexure 2**.

d. That, the petitioners had duly supplied the copy of the judgement and order vide letter dated 06.07.2018. For the kind perusal of Hon'ble Tribunal a copy of letter dated 06.07.2018 is enclosed with this Claim Petition as **Annexure 3**.

e. That, the respondents are about to make fresh promotions to the post of Assistant Engineer without making a fresh seniority list. This puts the petitioner in a precarious situation as the name of the petitioner still does not find place in the seniority list and thus in spite of him being senior to most of the other

candidates in the old seniority list he would again miss out a chance to be promoted.

f. That, not including the name of the petitioner and starting a promotion exercise is violation of Article 14 and 16 of the Constitution of India.

g. That, the petitioners not having any alternative remedy file this petition on the following grounds:

5. GROUNDS

I. Because, the name of the petitioner does not find place in the senioritry list of the Junior Engineer

II. Because the petitioner had secured more marks than some other persons whose name find place in the seniority list.

III. Because, non inclusion of the name of the petitioners in the seniority list is in violation of Article 14 and 16 of the Constitution of India.

IV. Because, the petitioners would suffer an irreparable loss and injury if the promotions are made without including the names of the petitioners as per the direction of this Hon'ble Tribunal.

6. **Details of Remedies Exhausted :**

The petitioner declares that before coming to this Hon'ble Tribunal, she has exhausted all the alternate remedies available to him.

7. **Matters not Previously Filed or Pending Before any Court:**

She further declares that for the subject matter involved in this claim petition no suit, writ, petition or claim petition is pending before any court or tribunal competent to adjudicate.

8. **Interim Relief:**

She further declares that no application for interim relief is being filed with the instant claim petition.

PRAYER

It is thus most respectfully prayed that the Hon'ble Tribunal may be pleased:

(i) Issue order or direction to direct the respondents to issue a seniority list including the name of the petitioners as per the directions of this Hon'ble Tribunal given vide judgement and order dated 27.06.2018 passed in Claim Petition No. 57/DB of 2018(Navneet Chauhan & Ors. Vs. State of Uttarakhand & Ors.).

(ii) Issue any other order or direction which the Hon'ble Court deems fit and proper.

(iii) Award the cost of claim petition to the petitioner.

Dated:

Shashank Pandey & Akansha Juyal
Advocates
(Counsels for the Petitioners)

BEFORE THE HON'BLE PUBLIC SERVICES TRIBUNAL AT DEHRADUN

District-Dehradun

Affidavit

In

Claim Petition No. .....(D/B) of 2019

Navneet Chauhan & Another

..... Petitioners

Versus

State of Uttarakhand & Ors

..... Respondents

Affidavit of Navneet Chauhan S/O Shri M.S. Chauhan aged about 32 years presently posted as Junior Engineer (IT) V.C.V.G.S.U. Bhawan, Kanali Road, Dehradun.

(Deponent)

I the deponent named above do hereby solemnly affirm and state on oath as under:

That the deponert is the Petitioner No. 1 in the aforesaid Petition is doing pairvi for Petitioner no. 2 and as such is fully acquainted with the case. The deponent I solemnly affirm and verify that the contents of Paragraph no. 1 to 7 along with sub-paragraphs, of the Review Petition are true to my personal knowledge and nothing material has been concealed. So **HELP ME GOD**.

(Deponent)

I, Shashank Pandey, Advocate, do hereby declare that the person making this affidavit alleging himself to be the same person is known to me from the perusal of records produced by him regarding this case.

Advocate.

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Solemnly affirmed before me, on this ..... Day of April 2019 at about 10 a.m, that I have satisfied myself by examining the deponent and he understood the contents of this affidavit, which have been read over and explained to him by me.

Oath Commissioner

BEFORE THE HON'BLE PUBLIC SERVICES TRIBUNAL AT DEHRADUN

District: Dehra Dun

Index

In

Claim Petition No.

Navneet Chauhan & Anr. vs. State of Uttarakhand & Others

Dated:
.12.16

Shashank Pandey & Nishant Chaturvedi
Advocates
(Counsel for the Petitioner)

78

BEFORE THE HON'BLE PUBLIC SERVICES TRIBUNAL AT DEHRADUN

District: Dehra Dun

Synopsis

In

Claim Petition No.

Navneet Chauhan & Anr. vs. State of Uttarakhand & Others

The petitioner was appointed as Junior Engineer pursuant to examination held in the year 2006. The name of the petitioner did not find place in the select list and the first waiting list and the petitioners were appointed subsequent to the second waiting list. The names of the persons appointed through the select list or the first waiting list find place in the seniority list circulated in the month of December, 2008 and August 2012. However, the names of the petitioners have not been arrayed in the aforesaid seniority list. Due to this omission the chances of promotion of the petitioners are adversely affected. The petitioners represented against such omission. However, no action has been taken to include the names of the petitioners in the seniority list as per the merit list prepared by the Select committee.

Hence this Claim Petition.

Dated:
.12.16

Shashank Pandey & Nishant Chaturvedi
Advocates
(Counsel for the Petitioner)

BEFORE THE HON'BLE PUBLIC SERVICES TRIBUNAL AT DEHRADUN

District: Dehra Dun

Claim Petition No.

1) Navneet Chauhan, s/o Shri M.S.Chauhan, aged about 32 years, presently posted as Junior Engineer (IT), V.C.V.G.S.U.Bhawan, Kanwali Road, Dehradun.
2) Upendra Bhandari, s/o Shri D.S. Bhandari, aged about 33 years, presently posted as Junior Engineer (Distribution), Sub Division Office, Vasant Vihar, Dehradun.
3) PradeepVadera, s/o Shri Ved Prakash Vadera, aged about 38 years, presently posted as Junior Engineer(Distribution), SDO, Mayapur, Haridwar.
4) Yogendra Singh Rawat, s/o Shri Sabal Singh Rawat, aged about 30 years, presently posted as Junior Engineer(Meter),Electricity Test Lab Rural, Roorkee.

..... Petitioners

VERSUS

1) State of Uttarakhand through Principal Secretary, Energy, Civil Secretariat, Dehra Dun.
2) Managing Director, Uttarakhand Power Corporation Limited, Victoria Cross Vijeta Gabar Singh Urja Bhawan, Kanwali Road, Dehradun.
3) Director (H.R.), Uttarakhand Power Corporation Limited, Victoria Cross Vijeta Gabar Singh Urja Bhawan, Kanwali Road, Dehra Dun

..... Respondents

Claim Petition U/S 4 of the U.P. Public Services Tribunal Act, 1976

Before the Hon'ble Chairman and his companion members of this Hon'ble Tribunal the petitioner most humbly submits as under:

1. That, the current claim petition is filed against the non-inclusion of the name of petitioners in the seniority list because of which the petitioners are denied of their right to be considered for promotion.

2. **Jurisdiction of the Tribunal:**

   The petitioner declares that the subject matter of the claim petition against which he is seeking redressal, is within the jurisdiction of the Hon'ble Public Services Tribunal.

3. **Limitation:**

   The petitioner declares that the matter of the claim petition against which he is seeking redressal is not delayed

4. **Facts of the Case:**

   a) That, the petitioners are Junior Engineers employed in Uttarakhand Power Corporation Limited having been appointed subsequent to advertisement issued on 23.08.2006 and written examination conducted on 9/11/2006. For the kind perusal of the Hon'ble Court, a copy of the advertisement is enclosed with this claim petition as **Annexure A1**.

   b) That, the petitioners had secured following marks in the examination conducted for the purpose of selection:

Sl No.	Name	Marks
1.	Navneet Chauhan	110
2.	Pradeep Vadera	97
3.	Upendra Bhandari	97
4.	Yogendra Rawat	96

For the kind perusal of the Hon'ble Court a copy of the list of candidates and mark secured is enclosed as Annexure A2.

c) That, the first select list was issued in May 2008. In the select list, 63 candidates from E&M branch were selected, 10 candidates were selected from Computer Branch as Junior Engineer (Trainee). For the kind perusal of the Hon'ble Court, a copy of the first select list as enclosed as Annexure A3.

d) That, out of the 63 candidates only 44 candidates joined as JE (Trainee)(E&M) and 6 out of 10 candidates joined as JE (Trainee)(Computer).

e) That, the first waiting list was issued in the month of November, 2008 in which 7 candidates from E&M branch were selected, 1 candidate was selected from Computer Branch as Junior Engineer (Trainee). For the kind perusal of the Hon'ble Court, copy of the first waiting list is enclosed as Annexure A4.

f) That, out of the 7 candidates only 5 candidates joined as JE (Trainee)(E&M) and 1 candidate joined on the lone seat of JE (Trainee)(Computer).

g) That, after the candidates selected in the waiting list had joined a seniority list was issued in the month of December, 2008 that had names of all the newly joined Junior Engineer (Trainees). The basis of assigning seniority to these candidates was as per Rule 6 of the Uttarakhand Government Servant Seniority Rules, 2002 i.e they were given seniority as per the marks obtained in the entrance examination. For the kind perusal of the Hon'ble Court a copy of the Uttarakhand Government Servant Seniority Rules, 2002 is enclosed as Annexure A5.

h) That, a second waiting list was issued in the month of March 2009 in which 7 candidates from

E&M branch were selected and 2 candidates were selected from Computer Branch as Junior Engineer (Trainee). The petitioners have all been selected in this second waiting list. For the kind perusal of the Hon'ble Court, copy of the second waiting list is enclosed as **Annexure A6.**

i) That, since the seniority list was already issued before the appointment of the petitioners, they did not find place in the seniority list.

j) That, the seniority list issued in the month of December, 2008 was challenged before Hon'ble High Court of Uttarakhand and also before Hon'ble Public Services Tribunal by various persons and hence no seniority list was issued till 21.08.2012, when a final seniority list was issued. This seniority list again did not include the petitioners as it was nothing else but re-arrangement of the seniority of the persons included in the list of 2008 as per the orders of the various Courts. For the kind perusal of the Hon'ble Court, a copy of the final seniority list dated 21.08.2012 is enclosed as **Annexure A7**.

k) That, it is pertinent to point out at this juncture that the candidates initially used to be recruited as Apprentice Supervisor in the erstwhile U.P. State Electricity Board under Regulations 13, 14 and 15 of the Regulations, 1972. An amendment made vide notification dated 28-11-1973 the word 'Supervisors' was substituted by the word 'Junior Engineers'. In fact, the Regulations of 1972 were renamed as "U.P. State Electricity Board Junior Engineer (E&M) Service Regulations, 1972" by the notification dated 29-11-1977. The Board by an order dated 19-10-1976 decided that instead of initially appointing diploma holders to the post of Apprentice Supervisor and

thereafter Junior Engineers on completion of one year training, the selected candidates after the examination and the interview may be appointed as Junior Engineers (Trainee) in the pay scale of Junior Engineers and may be given regular charge of Junior Engineer on completion of one year's satisfactory training. However, after 1978 all the recruitments in the erstwhile U.P. State Electricity Board were being made by the Electricity Service Commission which was constituted under the Regulations of 1978. Thus, the appointments of the petitioners are governed by the Regulations of 1978. For the kind perusal of the Hon'ble Court the copy of the 1972 Regulations, the copy of the 1978 Regulations and the copy of U.P. State Electricity Board (Limitation of Functions) Regulations, 1978 are being enclosed as Annexure A8, A9 & A10.

l) That, the petitioners have been working diligently with the department, however, no new seniority list has been issued because of which the petitioners do not have an opportunity to get promoted in case an opportunity for promotion arises and a DPC is held for promotion.

m) That, in fact a DPC was conducted on 10.09.2016 in which two persons namely Rajendra Singh Bisht and Komal were promoted to the post of Assistant Engineer. Both persons secured 109 marks in the examination for selection. This promotion could happen only because they found place in the seniority list whereas the petitioner no. 1 who had secured 110 marks in the examination for selection was not promoted only because his name did not appear in the seniority list.

n) That, the petitioners have submitted a number of representations to the Corporation. However, no action has been taken till date on the aforesaid representation of the petitioners. For the kind perusal of the Hon'ble Court, a copy of the representations of the petitioners is enclosed as Annexure A11.

o) That, the petitioners are qualified for promotion and all of them but Petitioner no. 4 have B.Tech. degrees from various universities of the country. For the kind perusal of the Hon'ble Court a copy of the degrees of the petitioners is enclosed as Annexure A12.

p) That, having no other alternate or efficacious remedy the petitioner files this petition amongst other on following grounds.

5. **Grounds:**

I. Because, the petitioners are all substantively appointed Junior Engineers having been appointed in pursuance of an advertisement and written examination.

II. Because, the careers of the petitioners are adversely affected because their names are not arrayed in the seniority list.

III. Because, Rule 5 of Uttarakhand government Servant Seniority Rules, 2002 which is applicable in the present case clearly specifies that the seniority inter se of the persons appointed as a result of any one selection would be as per the merit list prepared by the Select Committee.

6. **Details of Remedies Exhausted :**

The petitioner declares that before coming to this Hon'ble Tribunal, he has exhausted all the alternate remedies available to him.

7. **Matters not Previously Filed or Pending Before any Court:**

He further declares that for the subject matter involved in this claim petition no suit, writ, petition or claim petition is pending before any court or tribunal competent to adjudicate.

8. **Interim Relief:**

He further declares that an application for interim relief is being filed with the instant claim petition.

Prayer

It is thus most respectfully prayed that the Hon'ble Tribunal may be pleased:

i. Issue an order or direction to direct the respondents to issue a seniority list including the name of petitioners and giving the seniority to the petitioners as per the merit list prepared by the select committee.

ii. To give the consequential benefits to the petitioners and to promote the petitioners in case a junior has been promoted, from the same date.

iii. Issue any other order or direction which the Hon'ble Court deems fit and proper.

iv. Award the cost of claim petition to the petitioner.

Dated:

Shashank Pandey & Nishant Chaturvedi
Advocates
(Counsel for the Petitioner)

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BEFORE THE HON'BLE PUBLIC SERVICES TRIBUNAL AT DEHRADUN

Affidavit
In
Claim Petition No. OF 2016

District: Dehra Dun

Navneet Chauhan & Another

.....Petitioner

VERSUS

State of Uttarakhand Ors.

..... Respondents

Affidavit of Navneet Chauhan, s/o Shri M.S.Chauhan, aged about 32 years, presently posted as Junior Engineer (IT), V.C.V.G.S.U.Bhawan, Kanwali Road, Dehradun

(Deponent)

I the deponent named above do hereby solemnly affirm and state on oath as under:

That the deponent is the petitioner in the aforesaid claim petition and as such is fully acquainted with the case. I solemnly affirm and verify that the contents of Paragraph no. 1 to 8 along with sub-paragraphs, of the claim petition are true to my personal knowledge and nothing material has been concealed. So **HELP ME GOD.**

(Deponent)

I, Shashank Pandey, Advocate, do hereby declare that the person making this affidavit alleging himself to be the same person is known to me from the perusal of records produced by him regarding this case.

Advo

Solemnly affirmed before me, on this ..... at about 11 a.m., that I have satisfied myself by examining the deponent and he understood the contents of this affidavit, which have been read over and explained to him by me.

Oath Commissioner